

Senate File 2285 - Introduced

SENATE FILE 2285
BY COMMITTEE ON ECONOMIC
GROWTH

(SUCCESSOR TO SSB 3001)

A BILL FOR

1 An Act relating to the administration of programs by the
2 economic development authority by creating a renewable
3 chemical production tax credit program, modifying the high
4 quality jobs program, and including effective date and other
5 applicability provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

HIGH QUALITY JOBS PROGRAM

Section 1. Section 15.119, subsection 2, paragraph a, Code 2016, is amended to read as follows:

a. (1) The high quality ~~job creation~~ jobs program administered pursuant to sections 15.326 through 15.336.

(2) In allocating tax credits pursuant to this subsection for each fiscal year of the fiscal period beginning July 1, 2016, and ending June 30, 2021, the authority shall not allocate more than one hundred five million dollars for purposes of this paragraph. This subparagraph (2) is repealed July 1, 2021.

(3) (a) In allocating tax credits pursuant to this subsection for the fiscal year beginning July 1, 2021, and ending June 30, 2022, the authority shall not allocate more than one hundred five million dollars for purposes of this paragraph if the aggregate amount of renewable chemical production tax credits under section 15.319 that were awarded on or after July 1, 2018, but before July 1, 2021, equals or exceeds twenty-seven million dollars.

(b) As soon as practicable after June 30, 2021, the authority shall notify the general assembly of the aggregate amount of renewable chemical production tax credits awarded under section 15.319 on or after July 1, 2018, but before July 1, 2021, and whether or not the tax credit allocation limitation described in subparagraph division (a) is applicable.

(c) This subparagraph (3) is repealed July 1, 2022.

DIVISION II

RENEWABLE CHEMICAL PRODUCTION TAX CREDIT PROGRAM

Sec. 2. Section 2.48, subsection 3, Code 2016, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. In 2022, the renewable chemical production tax credit program available under sections 15.315 through 15.321.

1 Sec. 3. Section 15.119, subsection 2, Code 2016, is amended
2 by adding the following new paragraph:

3 NEW PARAGRAPH. *h.* The renewable chemical production tax
4 credit program administered pursuant to sections 15.315 through
5 15.321. In allocating tax credits pursuant to this subsection,
6 the authority shall not allocate more than ten million dollars
7 for purposes of this paragraph.

8 Sec. 4. NEW SECTION. **15.315 Short title.**

9 This part shall be known and may be cited as the "*Renewable*
10 *Chemical Production Tax Credit Program*".

11 Sec. 5. NEW SECTION. **15.316 Definitions.**

12 As used in this part, unless the context otherwise requires:

13 1. "*Biobased content percentage*" means, with respect to any
14 renewable chemical, the amount, expressed as a percentage, of
15 renewable organic material present as determined by testing
16 representative samples using the American society for testing
17 and materials standard D6866.

18 2. "*Biomass feedstock*" means sugar, polysaccharide, crude
19 glycerin, lignin, fat, grease, or oil derived from a plant or
20 animal, or a protein capable of being converted to a building
21 block chemical by means of a biological or chemical conversion
22 process.

23 3. "*Building block chemical*" means a molecule converted
24 from biomass feedstock as a first product or a secondarily
25 derived product that can be further refined into a higher-value
26 chemical, material, or consumer product. "*Building block*
27 *chemical*" includes but is not limited to high-purity glycerol,
28 oleic acid, lauric acid, methanoic or formic acid, arabonic
29 acid, erythronic acid, glyceric acid, glycolic acid, lactic
30 acid, 3-hydroxypropionate, propionic acid, malonic acid,
31 serine, succinic acid, fumaric acid, malic acid, aspartic
32 acid, 3-hydroxybutyrolactone, acetoin, threonine, itaconic
33 acid, furfural, levulinic acid, glutamic acid, xylonic acid,
34 xylaric acid, xylitol, arabitol, citric acid, aconitic acid,
35 5-hydroxymethylfurfural, lysine, gluconic acid, glucaric acid,

1 sorbitol, gallic acid, ferulic acid, nonfuel butanol, nonfuel
2 ethanol, a polymer or gum that can be produced directly from a
3 protein-based biomass feedstock, or such additional molecules
4 as may be included by the authority by rule after consultation
5 with appropriate experts from Iowa state university, including
6 but not limited to the Iowa state university center for
7 biorenewable chemicals.

8 4. "*Crude glycerin*" means glycerin with a purity level below
9 ninety-five percent.

10 5. "*Eligible business*" means a business meeting the
11 requirements of section 15.317.

12 6. "*Food additive*" means a building block chemical that
13 is not primarily consumed as food but which, when combined
14 with other components, improves the taste, appearance, odor,
15 texture, or nutritional content of food. The authority, in its
16 discretion, shall determine whether or not a building block
17 chemical is primarily consumed as food.

18 7. "*High-purity glycerol*" means glycerol with a purity level
19 of ninety-five percent or higher.

20 8. "*Pre-eligibility production threshold*" means, with respect
21 to each eligible business, the number of pounds of renewable
22 chemicals produced, if any, by an eligible business during the
23 calendar year prior to the calendar year in which the business
24 first qualified as an eligible business pursuant to section
25 15.317.

26 9. "*Program*" means the renewable chemical production tax
27 credit program administered pursuant to this part.

28 10. "*Renewable chemical*" means a building block chemical
29 with a biobased content percentage of at least fifty percent.
30 "*Renewable chemical*" does not include a chemical sold or used
31 for the production of food, feed, or fuel. "*Renewable chemical*"
32 includes cellulosic ethanol, starch ethanol, or other ethanol
33 derived from biomass feedstock, fatty acid methyl esters,
34 or butanol, but only to the extent that such molecules are
35 produced and sold for uses other than food, feed, or fuel.

1 "*Renewable chemical*" also includes a building block chemical
2 that can be a food additive as long as the building block
3 chemical is not primarily consumed as food and is also sold
4 for uses other than food. "*Renewable chemical*" also includes
5 supplements, vitamins, nutraceuticals, and pharmaceuticals, but
6 only to the extent that such molecules do not provide caloric
7 value so as to be considered sustenance as food or feed.

8 11. "*Sugar*" means the organic compound glucose, fructose,
9 xylose, arabinose, lactose, sucrose, starch, cellulose, or
10 hemicellulose.

11 Sec. 6. NEW SECTION. 15.317 Eligibility requirements.

12 To be eligible to receive the renewable chemical production
13 tax credit pursuant to the program, a business shall meet all
14 of the following requirements:

15 1. The business is physically located in this state.

16 2. The business is operated for profit and under single
17 management.

18 3. The business is not an entity providing professional
19 services, health care services, or medical treatments or an
20 entity engaged primarily in retail operations.

21 4. The business organized, expanded, or located in the state
22 on or after the effective date of this division of this Act.

23 5. The business shall not be relocating or reducing
24 operations as described in section 15.329, subsection 1,
25 paragraph "b", and as determined under the discretion of the
26 authority.

27 6. The business is in compliance with all agreements entered
28 into under this program or other programs administered by the
29 authority.

30 Sec. 7. NEW SECTION. 15.318 Eligible business application
31 and agreement — maximum tax credits.

32 1. *Application.*

33 a. An eligible business that produces a renewable chemical
34 in this state from biomass feedstock during a calendar year may
35 apply to the authority for the renewable chemical production

1 tax credit provided in section 15.319.

2 *b.* The application shall be made to the authority in the
3 manner prescribed by the authority.

4 *c.* The application shall be made during the calendar year
5 following the calendar year in which the renewable chemicals
6 are produced.

7 *d.* The authority may accept applications on a continuous
8 basis or may establish, by rule, an annual application
9 deadline.

10 *e.* The application shall include all of the following
11 information:

12 (1) The amount of renewable chemicals produced in the state
13 from biomass feedstock by the eligible business during the
14 calendar year, measured in pounds.

15 (2) Any other information reasonably required by the
16 authority in order to establish and verify eligibility under
17 the program.

18 *2. Agreement and fees.*

19 *a.* Before being issued a tax credit under section 15.319,
20 an eligible business shall enter into an agreement with the
21 authority for the successful completion of all requirements of
22 the program. As part of the agreement, the eligible business
23 shall agree to collect and provide any information reasonably
24 required by the authority in order to allow the board to
25 fulfill its reporting obligation under section 15.320.

26 *b.* The compliance cost fees authorized in section 15.330,
27 subsection 12, shall apply to all agreements entered into
28 under this program and shall be collected by the authority in
29 the same manner and to the same extent as described in that
30 subsection.

31 *c.* An eligible business shall fulfill all the requirements
32 of the program and the agreement before receiving a tax credit
33 or entering into a subsequent agreement under this section.
34 The authority may decline to enter into a subsequent agreement
35 under this section or issue a tax credit if an agreement is not

1 successfully fulfilled.

2 *d.* Upon establishing that all requirements of the program
3 and the agreement have been fulfilled, the authority shall
4 issue a tax credit and related tax credit certificate to the
5 eligible business stating the amount of renewable chemical
6 production tax credit the eligible business may claim.

7 3. *Maximum tax credit amount.*

8 *a.* The maximum amount of tax credit that may be issued under
9 section 15.319 to an eligible business for the production of
10 renewable chemicals in a calendar year shall not exceed the
11 following:

12 (1) In the case of an eligible business that has been in
13 operation in the state for five years or less at the time of
14 application, one million dollars.

15 (2) In the case of an eligible business that has been in
16 operation in the state for more than five years at the time of
17 application, five hundred thousand dollars.

18 *b.* An eligible business shall not receive a tax credit for
19 renewable chemicals produced before the date the business first
20 qualified as an eligible business pursuant to section 15.317.

21 *c.* An eligible business shall only receive a tax credit for
22 renewable chemicals produced in a calendar year to the extent
23 such production exceeds the eligible business's pre-eligibility
24 production threshold.

25 *d.* An eligible business shall not receive more than five tax
26 credits under the program.

27 *e.* The authority shall issue tax credits under the program
28 on a first-come, first-served basis until the maximum amount of
29 tax credits allocated pursuant to section 15.119, subsection
30 2, paragraph "h", is reached. The authority shall maintain
31 a list of successful applicants under the program, so that
32 if the maximum aggregate amount of tax credits is reached in
33 a given fiscal year, eligible businesses that successfully
34 applied but for which tax credits were not issued shall be
35 placed on a wait list in the order the eligible businesses

1 applied and shall be given priority for receiving tax credits
2 in succeeding fiscal years. Placement on a wait list pursuant
3 to this paragraph shall not constitute a promise binding the
4 state. The availability of a tax credit and issuance of a tax
5 credit certificate pursuant to this subsection in a future
6 fiscal year is contingent upon the availability of tax credits
7 in that particular fiscal year.

8 4. *Termination and repayment.* The failure by an eligible
9 business in fulfilling any requirement of the program or any of
10 the terms and obligations of an agreement entered into pursuant
11 to this section may result in the reduction, termination,
12 or rescission of the tax credits under section 15.319 and may
13 subject the eligible business to the repayment or recapture of
14 tax credits claimed. The repayment or recapture of tax credits
15 pursuant to this subsection shall be accomplished in the same
16 manner as provided in section 15.330, subsection 2.

17 5. *Confidentiality.*

18 a. Except as provided in paragraph "b", any information
19 or record in the possession of the authority with respect to
20 the program shall be presumed by the authority to be a trade
21 secret protected under chapter 550 or common law and shall be
22 kept confidential by the authority unless otherwise ordered by
23 a court.

24 b. The identity of a tax credit recipient and the amount
25 of the tax credit shall be considered public information under
26 chapter 22.

27 Sec. 8. NEW SECTION. 15.319 **Renewable chemical production**
28 **tax credit.**

29 1. An eligible business that has entered into an agreement
30 pursuant to section 15.318 may claim a tax credit in an amount
31 equal to the product of five cents multiplied by the number
32 of pounds of renewable chemicals produced in this state from
33 biomass feedstock by the eligible business during the calendar
34 year in excess of the eligible business's pre-eligibility
35 production threshold. However, an eligible business shall

1 not receive a tax credit for the production of a secondarily
2 derived building block chemical if that chemical is also the
3 subject of a credit at the time of production as a first
4 product. The renewable chemical production tax credit shall
5 not be available for any renewable chemical produced before the
6 2017 calendar year or after the 2026 calendar year.

7 2. The tax credit shall be allowed against taxes imposed
8 under chapter 422, division II or III.

9 3. The tax credit shall be claimed for the tax year during
10 which the eligible business was issued the tax credit.

11 4. An individual may claim a tax credit under this section
12 of a partnership, limited liability company, S corporation,
13 cooperative organized under chapter 501 and filing as a
14 partnership for federal tax purposes, estate, or trust electing
15 to have income taxed directly to the individual. The amount
16 claimed by the individual shall be based upon the pro rata
17 share of the individual's earnings from the partnership,
18 limited liability company, S corporation, cooperative, estate,
19 or trust.

20 5. Any tax credit in excess of the tax liability is
21 refundable. In lieu of claiming a refund, the taxpayer
22 may elect to have the overpayment shown on the taxpayer's
23 final, completed return credited to the tax liability for the
24 following tax year.

25 6. *a.* To claim a tax credit under this section, a taxpayer
26 shall include one or more tax credit certificates with the
27 taxpayer's tax return.

28 *b.* The tax credit certificate shall contain the taxpayer's
29 name, address, tax identification number, the amount of the
30 credit, the name of the eligible business, and any other
31 information required by the department of revenue.

32 *c.* The tax credit certificate, unless rescinded by the
33 authority, shall be accepted by the department of revenue as
34 payment for taxes imposed pursuant to chapter 422, divisions II
35 and III, subject to any conditions or restrictions placed by

1 the authority upon the face of the tax credit certificate and
2 subject to the limitations of the program.

3 *d.* Tax credit certificates issued pursuant to this section
4 shall not be transferred to any other person.

5 **Sec. 9. NEW SECTION. 15.320 Reports to general assembly.**

6 By January 31, 2019, and by the same date each year
7 thereafter, the board, in cooperation with the department of
8 revenue, shall submit to the general assembly and the governor
9 a report describing the activities of the program for the most
10 recent calendar year for which the tax credit application
11 period has ended pursuant to section 15.318, subsection 1,
12 paragraph "c".

13 **Sec. 10. NEW SECTION. 15.321 Rules.**

14 The authority and the department of revenue shall each adopt
15 rules as necessary for the implementation and administration
16 of this part.

17 **Sec. 11. NEW SECTION. 422.10A Renewable chemical production
18 tax credit.**

19 The taxes imposed under this division, less the credits
20 allowed under section 422.12, shall be reduced by a renewable
21 chemical production tax credit allowed under section 15.319.

22 **Sec. 12.** Section 422.33, Code 2016, is amended by adding the
23 following new subsection:

24 **NEW SUBSECTION. 22.** The taxes imposed under this division
25 shall be reduced by a renewable chemical production tax credit
26 allowed under section 15.319.

27 **Sec. 13. TAX CREDIT CLAIMS.** Renewable chemical production
28 tax credits issued pursuant to the renewable chemical
29 production tax credit program enacted in this division of this
30 Act shall not be issued by the economic development authority
31 prior to July 1, 2018, and shall not be claimed by a taxpayer
32 prior to September 1, 2018.

33 **Sec. 14. EFFECTIVE UPON ENACTMENT.** This division of this
34 Act, being deemed of immediate importance, takes effect upon
35 enactment.

1 defined in the division.

2 In order to qualify for the tax credit, a business must
3 meet several requirements. First, the business must be
4 physically located in Iowa and operated for profit under
5 single management. Second, the business must not be an
6 entity providing professional services, health care services,
7 or medical treatments, or be engaged primarily in retail
8 operations. Third, the business must have organized, expanded,
9 or located in Iowa on or after the effective date of the
10 division. Fourth, the business must not be, in the discretion
11 of the EDA, ineligible under certain provisions relating to the
12 relocation or reduction of business operations within Iowa.
13 Fifth, the business must be in compliance with all agreements
14 entered into under the program or other programs administered
15 by the EDA.

16 An eligible business seeking a tax credit is required to
17 submit an application to the EDA containing various information
18 during the calendar year following the calendar year in which
19 the renewable chemicals are produced. The EDA may accept
20 applications on a continuous basis or may establish an annual
21 application deadline.

22 Before being issued a tax credit, an eligible business
23 is required to enter into an agreement with the EDA for the
24 successful completion of all requirements of the program. The
25 EDA is authorized to impose two compliance cost fees under the
26 program. The first fee equals \$500 per agreement. The second
27 fee equals 0.5 percent of the value of the tax credit claimed
28 pursuant to the agreement if the agreement has an aggregate tax
29 credit value of \$100,000 or greater.

30 An eligible business that fails to comply with the
31 requirements of the program or the terms of an agreement with
32 the EDA may have its tax credits reduced, terminated, or
33 rescinded, and may be subject to the repayment or recapture of
34 claimed tax credits.

35 The tax credit equals the product of \$.05 multiplied by the

1 number of pounds of renewable chemicals produced in Iowa from
2 biomass feedstock by the eligible business during the calendar
3 year in excess of the eligible business's pre-eligibility
4 production threshold. "Pre-eligibility production threshold"
5 is defined in the bill. Renewable chemicals produced by
6 an eligible business either prior to calendar year 2017 or
7 prior to the date the business first qualifies as an eligible
8 business, or after calendar year 2026, shall not qualify for
9 the tax credit.

10 The tax credit shall be claimed for the tax year during which
11 the eligible business was issued the tax credit. However, tax
12 credits shall not be issued by EDA prior to July 1, 2018, or
13 claimed by the taxpayer prior to September 1, 2018. The tax
14 credit may be claimed against the individual income tax and the
15 corporate income tax. The credit is refundable or may, at the
16 election of the taxpayer, be carried forward for up to one tax
17 year. The tax credit shall not be transferred to any person.

18 The division provides that the program is subject to EDA's
19 maximum aggregate tax credit cap of \$170 million per fiscal
20 year in Code section 15.119, and not more than \$10 million
21 per fiscal year may be issued by the EDA under the program.
22 In addition, the maximum amount of tax credit that may be
23 issued to an eligible business for the production of renewable
24 chemicals in any one calendar year shall not exceed \$1 million
25 or \$500,000, depending on whether the eligible business has
26 been operating in Iowa at the time of application for five
27 or fewer years, or more than five years, respectively. An
28 eligible business shall not receive more than five tax credits
29 under the program. The EDA is required to issue tax credits
30 on a first-come, first-served basis until the maximum amount
31 of \$10 million per fiscal year is reached. If the amount of
32 tax credits exceeds this amount in a fiscal year, the EDA
33 is required to establish a wait list and give priority in
34 subsequent years to the eligible businesses on the wait list.

35 The division provides for the confidentiality of certain

1 information under the program. The identity of a tax credit
2 recipient and the amount of the tax credit shall be considered
3 public information under Code chapter 22 (examination of public
4 records), but any other information or record in the possession
5 of the EDA with respect to the program shall be presumed by
6 the EDA to be a trade secret protected under Code chapter 550
7 or common law and shall be kept confidential by the EDA unless
8 otherwise ordered by a court.

9 The division requires EDA to submit to the general assembly
10 and the governor an annual report describing the activities
11 of the program for each calendar year. The report for the
12 first calendar year the tax credit is available under the
13 program (2017) is due by January 31, 2019, and reports covering
14 subsequent calendar years are due by the same date each year
15 thereafter. Eligible businesses are required, as part of their
16 agreement with EDA, to collect and provide any information
17 reasonably required by EDA in order to fulfill this reporting
18 requirement.

19 The division adds the program to the list of tax expenditures
20 to be reviewed by the legislative tax expenditure committee in
21 calendar year 2022.

22 The division takes effect upon enactment and applies to
23 renewable chemicals produced in Iowa from biomass feedstock on
24 or after January 1, 2017.